

IN THE DISTRICT COURT OF THE UNITED STATES
FOR THE DISTRICT OF SOUTH CAROLINA
ANDERSON DIVISION

Antrell Jermaine Fordham, #262332,)	
)	
)	Civil Action No. 8:05-2230-CMC-BHH
Plaintiff,)	
)	
)	<u>REPORT AND RECOMMENDATION OF</u>
)	<u>MAGISTRATE JUDGE</u>
vs.)	
)	
CPL. A. Coker and PT1 C. Miller,)	
)	
Defendants.)	
_____)	

This matter is before the Court on the plaintiff's motion to dismiss the defendant's answer.

Pursuant to the provisions of Title 28, United States Code, Section 636(b)(1)(B), and Local Rule 73.02(B)(2)(d), D.S.C., this magistrate judge is authorized to review all pretrial matters in cases filed under Title 42, United States Code, Section 1983, and submit findings and recommendations to the District Court.

The plaintiff has sued for "unprofessional and unlawful practices during a criminal investigation and case." Specifically, he complains that the defendants seized \$706.00 from him during the investigation of a bank robbery and car-jacking and failed to return it to him.

It is not clear whether the motion is intended as one for judgment on the pleadings, pursuant to Fed. R. Civ. P. 12(c), or to strike, pursuant to Fed. R. Civ. P. (f). Generally, the plaintiff simply expresses disagreement with the defenses presented in the Answer. Regardless, the Court has considered the plaintiff's motion and the pleadings in accordance with the applicable legal standards and finds that there is no basis to strike any portions of

the defendants' answer or to grant judgment in favor of the plaintiff based upon the pleadings.

CONCLUSION

Wherefore, it is RECOMMENDED that the plaintiff's motion to dismiss the answer [Doc. 21] should be DENIED.

IT IS SO RECOMMENDED.

s/Bruce H. Hendricks
United States Magistrate Judge

August 21, 2006
Greenville, South Carolina